

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

**July 28 – August 1, 2003**

| Date Issued | Type of Case(1) | Proceeding or Appn. No. | Party or Parties             | TTAB Panel(2)                | Issue  | TTAB Decision   | Opposer's or Petitioner's Mark and Goods or Services | Applicant's or Respondent's Mark and Goods or Services   | Mark and Goods Cited by Examining Attorney                    | Examining Attorney | Citable as Precedent of TTAB |
|-------------|-----------------|-------------------------|------------------------------|------------------------------|--|---|--|--|---|--------------------|------------------------------|
| 7-28        | EX              | 75/660,891              | A.D. 1619 Company            | Simms*<br>Hohein<br>Chapman  | whether the matter applicant seeks to register functions as a service mark for its recited services; whether applicant's specimens show service mark use of its claimed mark | Refusal Affirmed in both classes on both grounds of refusal |  | design of the entry way of a building [ <i>Cl. 36 services</i> : real estate agency services, leasing office space to tenants, management of real estate, real estate investment, and real estate brokerage services; <i>Cl. 41 services</i> : entertainment services, namely, provision of background, backdrops, and visual settings for motion pictures, television broadcasts, and video and sound recordings] |   | Wahlberg           | No                           |
| 7-28        | EX              | 76/313,168              | Toyo Tire & Rubber Co., Ltd. | Simms<br>Hohein*<br>Holtzman | 2(d)   | Refusal Affirmed  |  | "NITTO TERRA GRAPPLER" [tires and inner tubes for vehicles]  | "GRAPPLER" [vehicle tires]                                    | Lincoski           | No                           |
| 7-30        | EX              | 75/752,783              | Sedaka                       | Quinn<br>Hohein*<br>Chapman  | whether the term applicant seeks to register functions as a mark for applicant's goods   | Refusal Affirmed  |  | "SEDAKA" [prerecorded music, namely, a series of musical sound recordings]   |   | de Jesus           | No                           |
| 7-30        | EX              | 76/148,864              | Quantum Devices, Inc.        | Quinn<br>Chapman*<br>Rogers  | 2(d)   | Refusal Affirmed  |  | "λ LIGHT" [laser chips and laser modules for opto-electronic voice and data transmission]  | "Lambda StarLight" [lasers for scientific and industrial use] | Carroll            | No                           |

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(2) \*=Opinion Writer; (D)=Dissenting Panel Member

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| 7-30        | EX              | 76/013,815              | Cyber Services, Inc.                             | Simms*<br>Quinn<br>Holtzman      | 2(e)(1) | Refusal Affirmed                                      |  | "BALLS.COM" [preparing and disseminating electronic billboard advertising regarding sports equipment via the Internet; providing an electronic on-line shoppers guide for information in the field of sports equipment; providing computerized database management relating to sports equipment designs, brand names, recommended end uses and products sources, including information regarding manufacturers, distributors and retailers of sports equipment] |  | Jenkins            | No                           |
| 7-30        | EX (R)          | 75/809,670              | Manhattan Scientifics, Inc.                      | Hairston<br>Walters*<br>Bottorff | 2(e)(1) | Request for Reconsideration Denied (Refusal Affirmed) |  | "POWER HOLSTER" [fuel cell based charging systems for charging and holding electronic devices using fuel cells, <i>etc.</i> ]   |  | H. Thompson        | No                           |
| 7-30        | OPP             | 121,819                 | Capital Project Management, Inc. v. IMDISI, Inc. | Hanak<br>Quinn*<br>Rogers        | 2(e)(1) | Opposition Sustained                                  |  | "TIA" [investigation of problems experienced on construction projects using a technique which analyzes the effect of a particular event on scheduled activities]  |  |                    | Yes                          |

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| 7-30        | CANC            | 22,666                  | Yellow Book USA, Inc. v. Interstate Publisher's Corp.      | Seeherman Walters Drost* | whether respondent's registration should be restricted, under Section 18, by deletion of goods from its registration; affirmative defense based on a claim that petitioner's pleaded mark is generic | Petition for restriction / partial cancellation granted [respondent's goods limited to "manufacturing and industrial buyers guides published annually as classified telephone directories"]; petitioner's pleaded mark found not generic | "YELLOW BOOK" [community classified telephone and business classified telephone directories; telephone information services] | "THE YELLOW BOOK" (and design) [industrial directory, buyers guide and classified telephone directory published annually] |  |                    | No                           |
| 7-30        | OPP             | 121,790                 | Buell Motorcycle Co. v. Honda Giken Kogyo Kabushiki Kaisha | Quinn Hairston* Bottorff | 2(e)(1) [genericness and misdescriptiveness]   | Opposition Sustained   |  | "STREETFIGHTER" [motorcycles and structural parts therefor]   |  |                    | No                           |

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| 7-30        | EX              | 75/492,749              | Spanky's Inc.    | Seeherman Walters* Holtzman | 2(a) [false suggestion of a connection] | Refusal Reversed |  | "SPANKY'S" [clothing, namely, t-shirts, sweat pants, sweat shirts, shirts, jackets, headwear, undergarments, gloves and scarves]   |  | Altree             | No                           |
| 7-31        | EX              | 75/535,688              | Eagle OPG, Inc.  | Walters* Bucher Bottorff    | 2(d)                                    | Refusal Affirmed |  | "GENERATIONS" [memory book and scrap book materials, namely, memory albums, photograph albums, scrapbook albums, binders, leaf binders, envelopes, filler paper for albums and binders, plastic pages for holding sheets of paper, plastic pages for holding photographs, archival storage pages, and paper expanding files] | "GENERATION" [organizers for stationery use; daily and yearly planners; stationery type portfolios; business card holders; telephone indexes; stationery desk sets; mini-stationery kits, comprising stapler, staples, rulers, scissors, composition books; and writing instruments] | Donnell            | No                           |

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